

# Enrolled House Bill 2357

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary)

CHAPTER .....

## AN ACT

Relating to firearms; creating new provisions; amending ORS 166.173, 166.260, 166.262, 166.370, 166.663 and 821.240; and declaring an emergency.

### Be It Enacted by the People of the State of Oregon:

**SECTION 1.** ORS 166.173 is amended to read:

166.173. (1) A city or county may adopt ordinances to regulate, restrict or prohibit the possession of loaded firearms in public places as defined in ORS 161.015.

(2) Ordinances adopted under subsection (1) of this section do not apply to or affect:

(a) A law enforcement officer [*in the performance of official duty*].

(b) A member of the military in the performance of official duty.

(c) A person licensed to carry a concealed handgun.

(d) A person authorized to possess a loaded firearm while in or on a public building or court facility under ORS 166.370.

(e) An employee of the United States Department of Agriculture, acting within the scope of employment, who possesses a loaded firearm in the course of the lawful taking of wildlife.

**(f) An honorably retired law enforcement officer, unless the person who is a retired law enforcement officer has been convicted of an offense that would make the person ineligible to obtain a concealed handgun license under ORS 166.291 and 166.292.**

**SECTION 2.** ORS 166.260, as amended by section 3, chapter 106, Oregon Laws 2012, is amended to read:

166.260. (1) ORS 166.250 does not apply to or affect:

*[(a) Sheriffs, constables, marshals, parole and probation officers, police officers, whether active or honorably retired, or other duly appointed peace officers.]*

**(a) A parole and probation officer, police officer or reserve officer, as those terms are defined in ORS 181.610.**

**(b) A federal officer, as defined in ORS 133.005, or a certified reserve officer or corrections officer, as those terms are defined in ORS 181.610, while the federal officer, certified reserve officer or corrections officer is acting within the scope of employment.**

**(c) An honorably retired law enforcement officer, unless the person who is a retired law enforcement officer has been convicted of an offense that would make the person ineligible to obtain a concealed handgun license under ORS 166.291 and 166.292.**

*[(b)]* **(d) Any person summoned by [*any such officer*] an officer described in paragraph (a) or (b) of this subsection to assist in making arrests or preserving the peace, while [*said person so summoned is actually*] the summoned person is engaged in assisting the officer.**

[(c)] (e) The possession or transportation by any merchant of unloaded firearms as merchandise.  
[(d)] (f) Active or reserve members of:

(A) The Army, Navy, Air Force, Coast Guard or Marine Corps of the United States, or of the National Guard, when on duty;

(B) The commissioned corps of the National Oceanic and Atmospheric Administration; or

(C) The Public Health Service of the United States Department of Health and Human Services, when detailed by proper authority for duty with the Army or Navy of the United States.

[(e)] (g) Organizations which are by law authorized to purchase or receive weapons described in ORS 166.250 from the United States, or from this state.

[(f)] (h) Duly authorized military or civil organizations while parading, or the members thereof when going to and from the places of meeting of their organization.

[(g)] *A corrections officer while transporting or accompanying an individual convicted of or arrested for an offense and confined in a place of incarceration or detention while outside the confines of the place of incarceration or detention.*

[(h)] (i) A person who is licensed under ORS 166.291 and 166.292 to carry a concealed handgun.

(2) It is an affirmative defense to a charge of violating ORS 166.250 (1)(c)(C) that the person has been granted relief from the disability under ORS 166.274.

(3) Except for persons who are otherwise prohibited from possessing a firearm under ORS 166.250 (1)(c) or 166.270, ORS 166.250 does not apply to or affect:

(a) Members of any club or organization, for the purpose of practicing shooting at targets upon the established target ranges, whether public or private, while such members are using any of the firearms referred to in ORS 166.250 upon such target ranges, or while going to and from such ranges.

(b) Licensed hunters or fishermen while engaged in hunting or fishing, or while going to or returning from a hunting or fishing expedition.

(4) The exceptions listed in subsection [(1)(b) to (h)] **(1)(d) to (i)** of this section constitute affirmative defenses to a charge of violating ORS 166.250.

**SECTION 3.** ORS 166.262 is amended to read:

166.262. A peace officer may not arrest or charge a person for violating ORS 166.250 (1)(a) or (b) or 166.370 (1) if the person has in the person's immediate possession:

(1) A valid license to carry a firearm as provided in ORS 166.291 and 166.292[.];

**(2) Proof that the person is a law enforcement officer; or**

**(3) Proof that the person is an honorably retired law enforcement officer, unless the person has been convicted of an offense that would make the person ineligible to obtain a concealed handgun license under ORS 166.291 and 166.292.**

**SECTION 4.** ORS 166.370 is amended to read:

166.370. (1) Any person who intentionally possesses a loaded or unloaded firearm or any other instrument used as a dangerous weapon, while in or on a public building, shall upon conviction be guilty of a Class C felony.

(2)(a) Except as otherwise provided in paragraph (b) of this subsection, a person who intentionally possesses:

(A) A firearm in a court facility is guilty, upon conviction, of a Class C felony. A person who intentionally possesses a firearm in a court facility shall surrender the firearm to a law enforcement officer.

(B) A weapon, other than a firearm, in a court facility may be required to surrender the weapon to a law enforcement officer or to immediately remove it from the court facility. A person who fails to comply with this subparagraph is guilty, upon conviction, of a Class C felony.

(b) The presiding judge of a judicial district may enter an order permitting the possession of specified weapons in a court facility.

(3) Subsection (1) of this section does not apply to:

[(a)] *A sheriff, police officer, other duly appointed peace officers or a corrections officer while acting within the scope of employment.*

(a) A police officer or reserve officer, as those terms are defined in ORS 181.610.

(b) A parole and probation officer, as defined in ORS 181.610, while the parole and probation officer is acting within the scope of employment.

(c) A federal officer, as defined in ORS 133.005, or a certified reserve officer or corrections officer, as those terms are defined in ORS 181.610, while the federal officer, certified reserve officer or corrections officer is acting within the scope of employment.

[(b)] (d) A person summoned by [a peace officer] an officer described in paragraph (a), (b) or (c) of this subsection to assist in making an arrest or preserving the peace, while the summoned person is engaged in assisting the officer.

(e) An honorably retired law enforcement officer.

[(c)] (f) An active or reserve member of the military forces of this state or the United States, when engaged in the performance of duty.

[(d)] (g) A person who is licensed under ORS 166.291 and 166.292 to carry a concealed handgun.

[(e)] (h) A person who is authorized by the officer or agency that controls the public building to possess a firearm or dangerous weapon in that public building.

[(f)] (i) An employee of the United States Department of Agriculture, acting within the scope of employment, who possesses a firearm in the course of the lawful taking of wildlife.

[(g)] (j) Possession of a firearm on school property if the firearm:

(A) Is possessed by a person who is not otherwise prohibited from possessing the firearm; and

(B) Is unloaded and locked in a motor vehicle.

(4)(a) The exceptions listed in subsection [(3)(b) to (g)] (3)(d) to (j) of this section constitute affirmative defenses to a charge of violating subsection (1) of this section.

**(b) A person may not use the affirmative defense described in subsection (3)(e) of this section if the person has been convicted of an offense that would make the person ineligible to obtain a concealed handgun license under ORS 166.291 and 166.292.**

(5)(a) Any person who knowingly, or with reckless disregard for the safety of another, discharges or attempts to discharge a firearm at a place that the person knows is a school shall upon conviction be guilty of a Class C felony.

(b) Paragraph (a) of this subsection does not apply to the discharge of a firearm:

(A) As part of a program approved by a school in the school by an individual who is participating in the program;

(B) By a law enforcement officer acting in the officer's official capacity; or

(C) By an employee of the United States Department of Agriculture, acting within the scope of employment, in the course of the lawful taking of wildlife.

(6) Any weapon carried in violation of this section is subject to the forfeiture provisions of ORS 166.279.

(7) Notwithstanding the fact that a person's conduct in a single criminal episode constitutes a violation of both subsections (1) and (5) of this section, the district attorney may charge the person with only one of the offenses.

(8) As used in this section, "dangerous weapon" means a dangerous weapon as that term is defined in ORS 161.015.

**SECTION 5.** ORS 166.663 is amended to read:

166.663. (1) A person may not cast from a motor vehicle an artificial light while there is in the possession or in the immediate physical presence of the person a bow and arrow or a [rifle, gun, revolver or other] firearm.

(2) Subsection (1) of this section does not apply to a person casting an artificial light:

(a) From the headlights of a motor vehicle that is being operated on a road in the usual manner.

(b) When the bow and arrow[, rifle, gun, revolver or other] or firearm that the person has in the possession or immediate physical presence of the person is disassembled or stored, or in the trunk or storage compartment of the motor vehicle.

(c) When the ammunition or arrows are stored separate from the weapon.

(d) On land owned or lawfully occupied by that person.

(e) On publicly owned land when that person has an agreement with the public body to use that property.

(f) When the person is a peace officer, or **is a** government employee engaged in the performance of official duties.

(g) When the person has been issued a license under ORS 166.291 and 166.292 to carry a concealed [*weapon*] **handgun**.

**(h) When the person is an honorably retired law enforcement officer, unless the person has been convicted of an offense that would make the person ineligible to obtain a concealed handgun license under ORS 166.291 and 166.292.**

(3) A peace officer may issue a citation to a person for a violation of subsection (1) of this section when the violation is committed in the presence of the peace officer or when the peace officer has probable cause to believe that a violation has occurred based on a description of the vehicle or other information received from a peace officer who observed the violation.

(4) Violation of subsection (1) of this section is punishable as a Class B violation.

(5) As used in this section, "peace officer" has the meaning given that term in ORS 161.015.

**SECTION 6.** ORS 821.240 is amended to read:

821.240. (1) A person commits the offense of operating a snowmobile or an all-terrain vehicle while carrying a firearm or bow if the person operates any snowmobile or all-terrain vehicle with a firearm in the possession of the person, unless the firearm is unloaded, or with a bow, unless all arrows are in a quiver.

(2) Subsection (1) of this section does not apply to:

(a) A person who is licensed under ORS 166.291 and 166.292 to carry a concealed handgun[.];

**(b) A law enforcement officer; or**

**(c) An honorably retired law enforcement officer, unless the person who is a retired law enforcement officer has been convicted of an offense that would make the person ineligible to obtain a concealed handgun license under ORS 166.291 and 166.292.**

(3) As used in this section, "unloaded" means:

(a) If the firearm is a revolver, that there is no live cartridge in the chamber that is aligned with the hammer of the revolver;

(b) If the firearm is a muzzle-loading firearm, that the firearm is not capped or primed; or

(c) If the firearm is other than a revolver or a muzzle-loading firearm, that there is no live cartridge in the chamber.

(4) The offense described in this section, operating a snowmobile or an all-terrain vehicle while carrying a firearm or bow, is a Class B traffic violation.

**SECTION 7.** The amendments to ORS 166.173, 166.260, 166.262, 166.370, 166.663 and 821.240 by sections 1 to 6 of this 2015 Act apply to conduct occurring on or after the effective date of this 2015 Act.

**SECTION 8.** This 2015 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect on its passage.

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**Passed by House March 25, 2015**

**Repassed by House July 1, 2015**

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

**Passed by Senate June 30, 2015**

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Peter Courtney, President of Senate

**Received by Governor:**

.....M,....., 2015

**Approved:**

.....M,....., 2015

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Kate Brown, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2015

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Jeanne P. Atkins, Secretary of State